IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 02.07.2007

CORAM:

THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA
and
THE HONOURABLE MR.JUSTICE S.TAMILVANAN

W.P.No.24442 of 2001

1. The Director of Sericulture,
   Department of Sericulture,
   249, 2nd Agraharam,
   Salem 636 001.

2. The Regional Deputy Director of
   Sericulture,
   Dharmapuri. .. Petitioners

Versus

1. K.S.Ramamurthy
   Asst. Inspector of Sericulture
   O/o The Assistant Director
   Sericulture,
   Alangayam Koottu Road,
   Khaderpet, Anna Salai,
   Vaniyambadi 635 751.

2. The Registrar,
   Tamil Nadu Administrative Tribunal,
   High Court Buildings,
   Chennai 104. .. Respondents

Writ Petition filed under Article 226 of The Constitution of India to issue a Writ of certiorari to call for the records relating to the order in O.A.No.4060 of 1995 dated 2.8.2001 on the file of the Tamil Nadu Administrative Tribunal, Chennai, the second respondent herein and quash the same.

For petitioners : Mr.M.Dhandapani,Spl.G.P.
For respondents : No appearance

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O R D E R

(Order of the Court was made by F.M.IBRAHIM KALIFULLA,J.)

The Director of Sericulture, Salem and the Regional Deputy Director of Sericulture, Dharmapuri are the petitioners. The challenge is to the order of the State Administrative Tribunal dated 02.08.2001 passed in O.A.No.4060 of 1995. The first respondent herein challenged the order of suspension, pending disciplinary action dated 06.09.1993 passed by the second petitioner. After the order dated 06.09.1993, the first respondent preferred O.A.No.6049 of 1993 challenging the said order of suspension. In that Original Application itself, by an order dated 19.04.1994, the Tribunal took a view that the contention of the first respondent that the order of suspension can be passed only by the appointing authority was not acceptable. However, the Tribunal directed the petitioners to review the order of suspension in the light of the representation made by the first respondent. Thereafter, the Director of Sericulture after considering the various aspects, namely the seriousness, gravity of the charges against the first respondent and the pendency of the criminal case against him, in his proceedings dated 28.07.1994 directed that the suspension order should be continued till finalisation of the disciplinary proceedings pending against him. The first respondent while preferring the present Original Application challenged the order of suspension dated 06.09.1993 on the ground that the second petitioner was incompetent to pass the order of suspension and that in any case the order of suspension was prolonged indefinitely. The Tribunal by accepting both the contentions, set aside the order of suspension. As against the said order of the Tribunal, the petitioners have come forward with this writ petition.

2. Mr.M.Dhandapani, learned Special Government Pleader submitted that after the Tribunal's order, the order of suspension was revoked on 24.11.1995 and that at present the first respondent is working as Assistant Inspector of Sericulture in the Office of the Assistant Director of Sericulture, Vaniyambadi. Therefore, at this distant point of time, we are of the view that the order of the Tribunal in setting aside the order of suspension need not be interfered with.

3. However, the conclusion of the Tribunal in holding that the second petitioner was not competent to pass the order of suspension has to be interfered with for the reason that under the Rules, namely Rule 14(a)(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the second petitioner, who is the immediate superior Officer of the first respondent was fully competent to issue the order of suspension pending disciplinary proceedings. In the reply statement filed before the Tribunal, the second petitioner has made it clear that in the Office of the Regional Deputy

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Director of Sericulture, Dharmapuri, the second petitioner was the Regional Gazetted Administrative and Supervisory Authority and as such, he was the immediate superior gazetted authority of the first respondent, who was a non gazetted subordinate servant. Such a categoric stand taken by the second petitioner was not refuted by the first respondent by filing any rejoinder to the reply affidavit. Unfortunately, the Tribunal has not taken note of either Rule 14(a)(1) or the stand of the second petitioner that he was the immediate superior Officer of the second respondent. Therefore, that part of the order of the Tribunal is liable to be set aside, even though we hold that setting aside the order of suspension need not be interfered with in view of the subsequent revocation of the same by the petitioners themselves on and from 24.11.1995.

Accordingly, the writ petition is partly allowed. No costs.

gms

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Director of Sericulture,
   Department of Sericulture,
   249, 2nd Agraharam,
   Salem 636 001.

2. The Regional Deputy Director of
   Sericulture,
   Dharmapuri.

+ One cc to Govt Pleader Sr 39660
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